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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/012,198	12/03/2001	Alan Christopher John Worrel	22061	5277
535	7590	10/06/2003	EXAMINER	
THE FIRM OF KARL F ROSS 5676 RIVERDALE AVENUE PO BOX 900 RIVERDALE (BRONX), NY 10471-0900			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SW

Office Action Summary	Application No.	Applicant(s)	
	10/012,198	WORREL ET AL.	
	Examiner	Art Unit	
	Charles A. Fox	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 38-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-37, drawn to a pallet handling device, classified in class 414, subclass 276.
- II. Claims 38-41, drawn to a method of handling pallets, classified in class 414, subclass 807.

Applicant's election without traverse of invention I, claims 1-37 in a telephone conversation with Herbert Dubno on September 12, 2003 is acknowledged.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the guard system, the location of the detents as claimed, the ramps being attached to said pallet receiving means and the structure of the pivot means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no drawing of the guards as claimed and no description of these guards in the specification. As such claims 13 and 14 have not been treated on the merits at this time.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-20 and 24-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically claim 17 recites the limitation "a second latching arrangement" in line 3. There is insufficient antecedent basis for this limitation in the claim. There is no first latching arrangement mention in claim 1 upon which this claim depends therefore there is no antecedent basis for a second latching arrangement. Since the scope of this claim cannot be adequately determined as written it and dependent claims 18-20 and 24-28 will not be treated on the merits at this time.

Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to what the applicant is trying to claim based upon the figures. There is no figure showing the lowermost pallet being in the same

plane of the entry point of the supply lanes. In fact the supply lanes have 3 different vertical heights relative to the bottommost pallet in the pallet receiving means. Claim 31 should be rewritten to eliminate the grammatical errors it now contains.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6,9,29,30,32,33,36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc in view of Stobb. In regards to claims 1-4,6,9,29,30,36 and 37 Clerc US 2,096,958 teaches a pallet live storage system comprising:

- a supply lane(48) for loaded pallets (28);

- a return lane (53) for emptied pallets for reloading.

Clerc does not teach a reorienting means between the two lanes.

Stobb US 4,019,639 teaches a device for collecting rows of material comprising:

- a rack structure (13) for receiving rows of material (10);

- a pivot (17) for said rack;

- an erector arm (21) for engaging a horizontal object and raising the object to a substantially vertical orientation;

- drive means (32) for raising said arm;

- wherein said material is placed in at least one row on said rack;

- stop means (49,51) to limit the movement of the rack;

a drive means (44) for pivoting the rack;

and said rack is pivoted about a horizontal axis and relative to its supporting structure (19) to form a vertical stack from said rows to facilitate lifting of said stack by a forklift. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the system taught by Clerc with the stack former taught by Stobb in order to allow the system to accumulate the pallets in an easy to handle manner.

In regards to claims 32 and 33 Clerc further teaches that ramps (53) are provided on the pallet return lane and that said ramps have a low friction surface in the form of rollers.

Claims 5,7,8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc and Stobb as applied to claims 1,4 and 9 above, and further in view of Dykstra. In regards to claim 5 Clerc in view of Stobb teach the limitations of claim 4 as above, they do not teach the pivoting rack as having translational motion. Dykstra teaches a device for pivoting pallets (32), wherein said system pivots about an axis (34) and has translational movement relative to its support structure as well. See figure 2. It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the device taught by Clerc and Stobb with the translational movement as taught by Dykstra in order to allow the pallets to be presented at a location that is optimal for unloading the pallets from the rack that would not be possible in a purely rotational system.

In regards to claims 7,8,10-12 Dykstra further teaches the use of sensors to determine the position of the pivoting rack, determining how many pallets may be on the

rack at any given time as well as sensing when pallets are to be loaded onto the rack from a waiting position, wherein all sensors are connected to a controller for operation of the system for optimal output, he further teaches using conventional controllers as desired such as a manual controller. See column 7 line 47 to column 8 line 14.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the control system taught by Dykstra on the device taught by Clerc and Stobb in order to allow the system to operate automatically or manually as desired by the operator of the device.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc and Stobb as applied to claim 1 above, and further in view of Springer. Clerc and Stobb teach the limitations of claim 1 as above, they do not teach a latching mechanism on the pivoting rack. Springer US 1,977,497 teaches a rack (6) for pivoting a row of vertical objects to a horizontal position, wherein the device has a latch assembly for securing the device in a particular position and said latch assembly has a detent. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the latching mechanism taught by Springer to the device taught by Clerc and Stobb in order to positively lock the device in place thereby increasing its operational safety by providing for a positive lock against pivoting of the rack.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc and Stobb as applied to claim 1 above, and further in view of Ferrisi et al. Clerc and Stobb teach the limitations of claim 1 as above, they do not teach using a friction damper on the pivoting rack. Ferrisi et al. US 5,950,771 teach using a friction damper

to minimize vibration and dissipate energy from a rotating shaft. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Clerc and Stobb with a friction damper as taught by Ferrisi et al. in order to allow the device to pivot in a smooth and controlled manner.

In regards to claim 34 it would have been obvious to one of ordinary skill in the art, at the time of invention to use a conveyor belt to move the pallets up the incline as conveyor belts are well known in the art for moving objects along both inclined and horizontal paths.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clerc and Stobb as applied to claim 32 above, and further in view of Rohrs et al. Clerc and Stobb teach the limitations of claim 32 as above they do not teach the ramp being connected to the pivoting member for movement therewith. Rohrs et al. US 4,084,713 teach a two section ramp where the first section (12) of said ramp pivots into a vertical position and the second section (14) is connected to said ramp for mutual movement. It would have been obvious to one of ordinary skill in the art, at the time of invention to connect said ramp and pivotal member taught by Clerc and Stobb in the manner taught by Rohrs et al. in order to allow the area near the device to have a clear floor area when said device is in the unload position while allowing the ramp to deploy in the load position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-

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4294. The examiner can normally be reached between 7:00-5:00 Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



EILEEN D. LILLIS
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9-30-03